

FORM 765S

(August 1999)

The following clauses apply to all subcontracts involving the performance of work on University or Government premises:

S1 - Clause A37 "Work on University or Government Premises" of either Form 765 (July 2000) or Form 765A (February 1999) is hereby deleted in its entirety and the following is substituted therefore:

Clause A37 - Work on University or Government Premises

To the extent that the Subcontractor's work under the subcontract involves performance by the Subcontractor or its lower-tier subcontractors at University or Government-owned sites or facilities, the following provisions shall apply:

(a) Liens. The Subcontractor agrees that, at any time upon the request of the University, it will submit a sworn statement setting forth the services performed or goods furnished by lower-tier subcontractors and the amount due and to become due to each. The Subcontractor further agrees that before the final payment called for hereunder, it will, if requested, submit to the University a complete set of vouchers showing what payments have been made for goods and labor used in connection with the work called for hereunder.

(b) Indemnify and Hold Harmless.

(1) The Subcontractor shall indemnify and hold harmless the University and the Government from all claims, demands, causes of action, or suits, of whatever nature, arising out of the services, labor, and goods furnished by the Subcontractor or its lower-tier subcontractors under the subcontract, and from all laborer's, materialmen's, and mechanic's liens upon the real property upon which the work is located or any other property of the University or the Government; and

(2) Promptly notify the University, in writing, of any claim, demands, causes of action, or suits brought to its attention. The Subcontractor shall forward with such notification copies of all pertinent papers received by the Subcontractor with respect to any such claims, demands, cause of action or suits, or liens. The Subcontractor, at the request of the University, shall do all things and execute and deliver all appropriate documents and assignments in favor of the University or the Government of all the Subcontractor's rights and claims growing out of such asserted claims as will enable the University and the Government to protect their respective interests by litigation or other means.

The final payment shall not be made until the Subcontractor, if required, shall deliver to the University a complete release of all liens arising out of the subcontract or receipts in full in lieu thereof as the University may require, and if required in either case, an affidavit that as far as it has knowledge or information, the receipts include all the labor and goods for which a lien could be filed. But the Subcontractor may, if any lower-tier subcontractor refuses to furnish a release or receipt in full, furnish a bond satisfactory to the University to indemnify it against any claim by lien or other means. If any lien or claim remains unsatisfied after all payments are made, the Subcontractor shall refund to the University all moneys that the latter may be compelled to pay in discharging such lien or claim, including all costs and reasonable attorney's fees.

(c) Cleaning Up. The Subcontractor shall at all times keep University or Government premises and adjoining premises where the work is performed free from accumulations of waste material or rubbish caused by its employees, work of its employees, or work of any of its lower-tier

subcontractors. At the completion of the work, the Subcontractor shall remove all rubbish from and about the building and all of its and its lower-tier subcontractor's tools, scaffolding, and surplus materials and shall leave the work area "broom clean" or its equivalent, unless more exactly specified. In cases of a dispute between the Subcontractor and lower-tier subcontractors employed on or about the structure or structures upon which the work is to be done, as herein provided, as to responsibility for the removal of the rubbish, or in case the same is not promptly removed as herein required, the University may remove the rubbish and charge the cost to the Subcontractor.

- (d) Employees. The Subcontractor shall not employ for the work any unfit person or anyone not skilled in the work assigned to the person and shall devote only its best qualified personnel to work under the subcontract. Should the University deem anyone employed on the work incompetent or unfit for duty and so inform the Subcontractor, the Subcontractor shall immediately remove such person from work under the subcontract, and that person shall not again, without written permission of the University, be assigned to work under the subcontract.
- (e) Insurance. The Subcontractor shall maintain with reputable companies insurance in amounts required under the subcontract sufficient to protect the University and the Government from any and all public liability and Workers' Compensation claims at all times during the performance of the subcontract. If requested, the Subcontractor shall supply the University with one copy of certificates of insurance covering policies required hereunder and shall obtain satisfactory evidence of lower-tier subcontractors compliance with these provisions before their participation in the work. In the absence of more specific direction from the University, the Subcontractor shall maintain additional insurance to the extent consistent with sound business practice.
- (f) Health and Safety Plan. When specified in the subcontract, the Subcontractor shall submit to the Contract Administrator a Health and Safety Plan that meets the requirements of the subcontract appendix entitled Safety and Health Requirements. The plan shall be submitted for review and approval within 30 days after the award of the subcontract. No work shall be performed on University or Government premises until approval of the plan is received by the Subcontractor.

S2 Environment, Safety, and Health Compliance and Stop Work

- (a) The Subcontractor shall take all reasonable precautions in the performance of the work under the subcontract to protect the safety and health of employees and all other persons; minimize danger from all hazards to persons, property and the environment; and shall comply with all applicable health, safety, fire protection, and environmental regulations and requirements, including notification and reporting requirements of the Subcontractor, the University, and DOE. Additionally, in the performance of work under the subcontract, the Subcontractor shall take all reasonable measures and precautions at all times to prevent injuries to or the death of its employees or any other person. Such measures or precautions shall include, but shall not be limited to, employing all safeguards and posting all warnings necessary to protect workers and others against any conditions which could be dangerous and providing a safe environment designed to prevent accidents of any kind whenever work is being performed under the subcontract. The Subcontractor shall bear the sole responsibility for Environment, Safety, and Health (ESH) compliance in connection with its work under the subcontract and shall indemnify and hold harmless the University from all claims for damages for any injury, damages or death to any person arising from the Subcontractor's work under the subcontract and from all fines, penalties or monetary damages assessed by any regulatory authority arising from the Subcontractor's work under the subcontract.
- (b) Without prejudice to any other "Stop Work" rights contained in the subcontract, any DOE, University or subcontract employee may stop work under the subcontract in accordance with the provisions of Laboratory Procedure 116, "Stop Work and Restart". The Subcontractor shall make no claim for an extension of time or compensation or damages by reason of or in connection with work stopped in accordance with this clause.

S3 - Health and Safety Instructions

- (a) DOE requires that the University review the health and safety program of each subcontractor if the subcontractor has employees on full-time assignment at the Los Alamos National Laboratory. Compliance requires the University to alert you to the following requirements:
- (1) All of the Subcontractor's local supervisors shall ensure that the University (the Contract Administrator and Laboratory Group ESH-5, Industrial Hygiene and Safety) is notified immediately of any occupational injury or illness that occurs on Laboratory-controlled premises regardless of where and when treated.
 - (2) The Subcontractor's performance shall be reviewed at intervals deemed necessary by the University to ensure that the Subcontractor is in compliance with DOE regulations.
 - (3) The University will investigate incidents occurring on Laboratory-controlled premises involving personal injury requiring more medical attention than first aid, significant damage to property of the Government or the Subcontractor or of possible public concern.
- (b) The following information shall also be furnished in writing for work to be performed at Laboratory facilities:
- (1) Average number of full-time employees required by the Subcontractor and,
 - (2) Name, address, and telephone number of the local supervisor or company official to be notified if the above employees became injured or ill.